

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/06/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.23775 OF 2001

and

WMP.NOs.35113 & 35114 OF 2001

Nehru Memorial College,
rep. by its Secretary,
M. Ponnambalam,
S/o. Mookka Pillai,
Puthanampatti 621 007
Tiruchirapalli District. .. Petitioner

-Vs-

1. The Government of Tamil Nadu,
rep. by its Secretary,
Department of Higher Education,
Fort St. George, Chennai 9.

2. The Director of Collegiate Education,
College Road, Chennai.

3. The Regional Joint Director of
Collegiate Education,
Tiruchirapalli Region,
Nandhi Kovil Street,
Tiruchirapalli-2.

4. Dr.S. Ramalingam,
Principal,
Nehru Memorial College,
Puthanampatti 621 007. .. Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.G. Masilamani,
Senior Counsel for
M/s. G.M. Mani Associates

For Respondents 1-3 : Mr.T. Sreetharan
Government Advocate

:J U D G M E N T

The present writ petition has been filed on behalf of Nehru Memorial College, Puthanampatti, which is a private aided College governed by the Tamil Nadu Private Colleges (Regulations) Act, 1976. The College was affiliated to Bharathidasan University and included in the list of University Grants Commission under Section 2(f) and 12(b) of the University Grants Commission Act, 1956.

2. The prayer in the writ petition is to issue writ of Certioarified Mandamus calling for the records pertaining to G.O.No.1785/88 dated 5.12.1988 and the consequent order Mu.Mu.No.72587/G2/2000 dated 18.10.2001, on the file of the 2nd respondent, and to quash Para (vi) of the said Government Order and the Order Mu.Mu.No.72587/G2/2000 dated 18.10.2001, and to direct the respondents 2 & 3 to fix the pay scale of the 4th respondent as Principal Professor's Grade in the pay scale of Rs.16,400-450-20,900-500-22,400 keeping the minimum at Rs.17,300 /- with effect from 1.1.1996.

3. Notification was issued in relation to the revision of Pay Scales on 24.8.1998. The notification prescribed two scales of pay for the Principal of Colleges, one relating to Principal (Professor's Grade) and the other relating to Principal in Reader's Grade. The scale of pay to Principal in Reader's Grade has been fixed as Rs.12000-420-18300 (minimum to be fixed at Rs.12480) and the scale of pay for the Principal in Professor's Grade is Rs.16400-450-20900-500-22400 (minimum to be fixed at Rs.17300). The qualifications prescribed for Principal (Professor's Grade) and Principal (Reader's Grade) are as follows :

PRINCIPAL (Professor's Grade)

i) A Master degree with at least 55% of marks or its equivalent grade [B] in the seven point scale.

ii) Ph.D., or equivalent qualification.

iii) A minimum total experience of 15 years of teaching / research in Universities / Colleges and other institutions of Higher Education.

PRINCIPAL (Reader's Grade).

i) A Master's Degree with at least 55% of marks or its equivalent grade [B] in the seven point scale.

ii) Ph.D., or equivalent qualification.

iii) A minimum total experience of 10 years of teaching / research in Universities / Colleges and other institutions of Higher Education.

Since the respondent No.4 was having the requisite qualification for Principal (Professor's Grade), recommendation was accordingly made by the College for

payment in the same scale of pay. However, the respondent Nos.2 and 3 have not accepted the same and they have fixed the scale payable to Principal (Reader's Grade) which is being challenged. After issuance of the notification, the Government of Tamil Nadu accepted the same in G.O.Ms.No.111 (Higher Education (H1) Department dated 24.3.1999. In paragraph 2 of the order it has been indicated as follows :-

□ . . . 2. The Government after careful consideration of the scheme have decided to implement the revised scales of pay as recommended by the Government of India with effect from 1st January, 1996 and pass the following orders :-

COVERAGE:-

(i) This scheme applies to all the teachers in Government / Aided Colleges, unless they specifically exercise an option in writing to remain out of the scheme. All teachers appointed after the date from which the scheme has been given effect to will invariably be governed by the provisions of the scheme.□

The Pay Scales recommended was also accepted as apparent from Annexure-I to the aforesaid Government Order. So far as the Educational qualification for the posts of Lecturer, Senior Lecturer and Principals in Colleges, Annexure-II laid down the conditions. Explanation to paragraph 2 of Annexure-II is as follows :-

□ Explanation:-

However, the Principals of Government colleges are presently being placed in two grades on the basis of the following criteria. Professor grade Principals are posted to colleges with at least two P.G. courses and a student strength of not less than 1000. Reader grade Principals are posted to other colleges.

Appointment to the post of Principals is being made from among the holders of posts of Lecturers (Selection Grade/Reader) in Colleges. The seniority as Selection grade Lecturer is the criteria, for promotion. This system, which is in vogue since 1989, will continue in Government colleges□.

4. A perusal of the Pay scales and qualifications prescribed by the University Grants Commission and the pay scales and qualifications laid down by the Government indicates that there is no difference in the pay scales nor in the qualifications, the only difference seems to be the explanation to paragraph 2 of the Annexure-II of G.O.Ms.No.111 dated 24.3.1999.

5. From the impugned order as well as the counter filed by the respondents 2 and 3, it is apparent that the scale of pay of respondent No.4 has been fixed for the post applicable to Principal (Reader's Grade) on the footing that the College in question offers only one number of post graduate course and the student strength of the college for the number of

approved subjects is less than 1000. This apparently has been done on the basis of G.O.Ms.No.1785 Education (H-3) Department dated 5-12-1988 read with the explanation contained in paragraph 2 to Annexure-II of G.O.Ms.No.111.

6. So far as G.O.No.1785 dated 5-12-1988 is concerned, it related to the recommendation of University Grants Commission as communicated by the Government of India in letter dated 22nd July, 1988. In the said Government Order issued by the State Government, it had been provided as follows :-

□ . . . (vi) The Principals of Colleges shall be placed in two scales of pay on the basis of criteria laid down hereunder:-

Appointment to the post of Principal shall be made from among the holders of posts of Lecturers (Selection Grade)/Readers in Colleges. Seniority as Lecturer alone shall be the criteria for promotion, irrespective of the designation i.e., total length of service from entry point shall be taken into account. However the existing seniority of the incumbent professors will be protected. The Principals of Colleges with at least two Post-Graduate Courses and a students□ strength of not less than 1,000 shall be allowed to draw the scale of Rs.4500-7 300 on par with the Professors in Universities. The pay of the Principals of Law Colleges shall be fixed in the scale of Rs.4500-7300 as they were already in the pre-revised scale of Rs.1500-2500. For all the other Principals of Colleges, their pay shall be fixed in the U. G.C. time scale of Rs.3,700-5,700 keeping the minimum at Rs.4,200 recognizing the pivotal and crucial role played by them as Heads of Institution. The Principals of these Colleges are also eligible for placement in Rs.4,500-7,300 scales should they fulfill the conditions of two Post-Graduate courses with 1,000 students□ strength, later.□

7. Whatever might have been the efficacy of such procedure in 1988, it cannot be said that such procedure is still applicable after issuance of G.O.Ms.No.111 dated 24.3.1999 accepting the subsequent recommendation of the University Grants Commissions made in the year 1988. It has to be noticed that in G.O.Ms.No.111 dated 24.3.1999, there is no reference to G.O.No.1785 dated 5.12.1988. Nor it is indicated that the conditions mentioned earlier in G.O.No.1785 would still be applicable. The question of pay scale applicable has to be considered with reference to the recommendation by the University Grants Commission as accepted by the Government in G.O.Ms.No.111 Dated 24.3.1999 and not with reference to any earlier order made prior tio the recommendation of the U.G.C.

8. So far as G.O.Ms.No.111 dated 24.3.1999 is concerned, it is apparent that the qualifications and pay scale prescribed by the U.G.C. have been accepted. The Explanation in paragraph 2 of Annexure-Ii, does not lay down that in aided colleges, Principal of Professor□s Grade cannot be appointed unless a particular students□ strength is increased or unless two P.G. Courses is available in such college. The explanation only refers to the existing practice relating to Government Colleges and there is no

reference to any private aided college. The U.G.C. scale of pay which has been accepted by the Government is based on qualifications and experience. There is no requirement of any particular students' strength or availability of any particular type of P.G. Course for obtaining the U.G.C. scale of pay. The explanation only refers to the practice in Government Colleges, which is in vogue since 1989, will continue in Government Colleges. In other words, it would only mean that the Government should appoint Principal in Professor's grade to Colleges having two P.G. courses and students' strength of not less than 1000 and Principals in Reader's Grade should be posted to other Colleges. This explanation is meant for the guidance of the Government in the matter relating to the posting of Principal in Government Colleges only.

9. Even assuming that the explanation is applicable to private aided Colleges and G.O.No.1785 is still applicable, there is no logic in the stand of the respondents to the effect that only approved post graduate courses and students in approved subjects shall be considered. If the College offers further Post Graduate courses which were recognised by the University, existence of such P.G. courses should also be considered for the purpose of applying G.O.MS.No.1785 of 1988. Similarly there is no reason to exclude the students in other courses though teachers in such other courses may not be receiving aid from the Government.

10. The learned counsel appearing for the petitioner had also placed reliance upon the decision of this Court in W.P.No.10922 of 2000 dated 6.11.2000, wherein the qualifications prescribed in Annexure-II to the post of Principals in G.O.Ms.No.111, H.E. Department, dated 24.3.1999 had been quashed. However, in view of the observations already made, it is unnecessary to deal with this aspect.

11. For the aforesaid reasons, the writ petition is allowed and the respondents 2 and 3 are directed to pay the scale of pay of Principal in Professor's Grade to respondent No.4. The arrears should be calculated and paid within a period of six months. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes

Internet : Yes

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To

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rep. by its Secretary,
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College Road, Chennai.

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